HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.262 of 2006

Date: 09-04-2007.

Between :

M/s.Srihitha Refineries Ltd., Davuluru, rep. by its Director.

.....Petitioner

And

The Commercial Tax Officer, Vuyyur, Krishna District.

.....Respondent.

HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.262 of 2006

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties and perused the record. Counter has been filed.

It appears that an assessment was made on 04.08.2005 granting exemption from payment of sales tax on the basis of an eligibility certificate. This order was revised by the Commercial Tax Officer by order dated 22.11.2005 and he noted in his order;

> *"Hence, the adjustment of demand of Rs.13,89,627-00 is now withdrawn from tax Defferement by rectifying the above mistake apparent from the record and the assessment is revised under rule 10 of the CST Act."*

We have gone through Rule 10 of the Central Sales Tax (Registration and Turnover) Rules, 1957. This Rule does not give any power to the assessing authority to revise the assessment. Obviously the order is without jurisdiction and without any power. This order cannot also

be sustained on the ground that even if there was a power with the Commercial Tax Officer, it could not be exercised without giving a chance of hearing to the petitioner. It imposes a liability of about fourteen lakhs on the petitioner without even issuing a show cause notice. For these reasons, the order cannot be sustained and is accordingly quashed.

The writ petition is allowed. No costs.

BILAL NAZKI, J

9th April 2007

NOOTY RAMAMOHANA RAO, J

ajr